

REMARKS

Introduction

Claims 1-12 and 14-110 are pending and stand rejected. Claims 1, 25, 56, and 80 are the only independent claims. With this amendment, claims 1, 12, 14, 18, 25-35, 37, 42-43, 46, 56-59, 70-71, 73-75, 77-90, 92, 95-98, 101 and 108 are amended. Most of the amendments are to correct typographical errors. Claim 13 has been cancelled. Claims 1, 25 (method), 56 and 80 (method) are the independent claims.

The Rejections in the Office Action

There are not art rejections of claims 56 through 110 of which claims 56 and 80 are independent claims. Applicant has amended all the claims in the group of claims 56-110 that have been rejected under section 112 or objected to by the Examiner. Further, applicant has amended the independent claims of this group to more precisely claim the invention, even though this amendment has not been required by any office action. In view of these amendments the claims 56-110 now should be allowable.

The art rejections pertain only to claims 1 through 55 of which claims 1 and 25 are the independent claims.

A. The Section 112 Rejections.

1. Independent claims 25 and 80 were objected to based upon informalities. The Office Action suggested that the term "automatically initiating an action at at least" should be changed to "automatically initiating an action at least." The Applicant respectfully submits that "at at" is correct in that the second "at" refers to "at least one" and the first "at" is positional.

2. Claims 56-111 were rejected under 35 U.S.C. §112. The Office Action stated that the recitation of "non-biological image recognizer" constituted new subject matter. These rejections have been obviated because "non-biological" has been deleted from the claims.

3. Dependent claim 24 was objected to by the Office Action because the term “non-visible light automatic image recognizer” was allegedly not described in the Specification. As is discussed below, the Applicant submits that this term has been described in the Specification and respectfully requests that this objection should be withdrawn.

B. The Art Rejections.

1. Independent claim 1 and dependent claims 2-18 and 21-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,980,672 to Saito in view of U.S. Patent No. 6,111,977 to Scott.

2. Independent claim 25 and dependent claims 26-32, 35-45, 49, 52, and 54-55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Saito in view of U.S. Patent No. 7,039,812 to Kawan.

3. Dependent claims 19-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Saito in view of Scott.

4. Dependent claims 33-34 and 53 were rejected under 35 U.S.C. §103(a) over Saito in view of Scott in view of Kawan and in further view of U.S. Patent No. 6,938,159 to O'Connor.

5. Dependent claims 46-48 and 50-51 were rejected under 35 U.S.C. §103 as being unpatentable over Saito in view of Kawan and further in view of U.S. Patent No. 6,891,467 to Perttunen. These art rejections are traversed for the reasons stated below, and in any event are obviated by this amendment.

The Pending Claims are Allowable

A. The Section 112 Rejections

1. The Objections Based Upon The Double Occurrence of "at" In Independent Claims 25 and 80 Are Traversed.

As mentioned, the Applicant respectfully submits that "at at" is correct in that the second "at" refers to "at least one" and the first "at" is positional.

2. The Rejections Of Claims 56-110 under 35 U.S.C. §112 Concerning "non-biological" Have Been Eliminated.

The Applicant has amended claims 56-110 to delete the term "non-biological." Consequently, the Applicant submits that these rejections are obviated.

3. The Rejection of Dependent Claim 24 Is Traversed Because The Term "non-visible light automatic image recognizer" is Supported by the Specification.

As acknowledged by the Office Action, the Applicant's specification states that image capture/recognition devices such as "ultrasonic-based, infrared-based, and radio frequency-based image capture devices, to name a few" can be used in the Applicant's system. Ultrasonic, infrared, and radio-frequency devices detect non-visible light. Consequently, the Applicant submits that the use of the term "non-visible light automatic image recognizer" is supported by the Specification.

B. The Art Rejections - Claims 25 Through 55 Are Non-Obvious - The Art Does Not Evidence Any Positional Relationship Or A Standard For Moveable Objects Directed To The Position Of A Moveable Object Relative To The Barrier.

Independent claims 1 and 25 (the only independent claims of the art rejected group) provide for an automatic image recognizer and that "the at least one image indicative of whether the vehicle is present" in the "environment of the vehicle" (claim 1) or a "predetermined image standard" is "indicative of whether a vehicle is present relative to the movable barrier operator" (claim 25). The art does not suggest such a combination as claimed.

The Saito reference describes a system that identifies fingerprints. More specifically, it compares the fingerprints of a registered user with fingerprints that are sensed and allows access based upon the comparison. See Saito, col. 10, lines 23-30. The fingerprints may be sensed at several locations including at the key of the user. See Saito, col. 23, lines 49-57 and FIG. 33. However, Saito is silent as to obtaining *images* that represent *the environment and presence of a vehicle relative to the moveable barrier operator*. See independent claims 1 and 25 as well as independent claims 56 and 80. Saito is also silent as to using *an image standard for vehicles* that *relates whether a vehicle is present to whether a vehicle is present relative to a moveable barrier operator*. See independent claim 25. In fact, with the Saito system, fingerprints are sensed completely independent of environment, presence and/or position of a vehicle and include absolutely no environmental or presence information.

The other cited references do not remedy the above-mentioned deficiencies of Saito. Scott also describes a fingerprint scanner apparatus that includes a fingerprint recognition area 20. See Scott, FIG. 1. Kawan describes a system where biometric data is entered in some sequence. See Kawan, col. 1, lines 60-66. O'Connor describes a system where biometric data is entered. O'Connor, col. 2, lines 33-45. Perttunen describes another system where biometric data (i.e., speech or fingerprints) is obtained. See Perttunen, col. 1, lines 20-27. In none of these references is there a teaching or suggestion as to obtaining and using images that indicate presence and/or environment of a vehicle and the moveable barrier operator as recited in the independent claims. In fact, with all of these references, the fingerprints/biometric data have absolutely no relation to the environment of or the presence of a vehicle relative to the moveable barrier operator. Certainly there is no suggestion of using an image to evidence the environment and/or the presence of a vehicle and then using that information to illicit a response from the operator.

Conclusion


Because of the amendments to claim 56-110 which obviate the section 112 rejections and because the above-mentioned claim elements are not taught or suggested by any of the

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references, alone or in combination, it is submitted that the independent claims 1, 25, 56, and 80 are allowable over the proposed combination. The remaining claims depend directly or indirectly upon the independent claims. Since these independent claims are allowable, it is submitted that the remaining dependent claims also are allowable.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,


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